

Planning Commission Date: February 8, 2006

Item No.

## MILPITAS PLANNING COMMISSION AGENDA REPORT

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Category: Public Hearing

Report prepared by: Kim Duncan

Public Hearing: Yes: X No: \_\_\_\_\_

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**TITLE: MAJOR TENTATIVE PARCEL MAP NO.MA2005-8**

Proposal: A request for a major tentative parcel map to convert one industrial building to thirty-two (32) condominium ownership units in the Oak Creek Business Park.

Location: 1551 McCarthy Boulevard.

APN: 086-03-080

**RECOMMENDATION: Approval with Conditions**

Applicant: Balch Enterprises, 30960 Huntwood Avenue, Hayward, CA. 94544

Property Owner: Same

Previous Action(s): "S" Zone Approval and Amendment, Minor Tentative Parcel Map

Environmental: Exempt pursuant to Section 15301, Existing Facilities, Class 1(k).

General Plan Designation: Highway Services

Present Zoning: Light Industrial with S-Zone Overlay ("M1-S")

Existing Land Use: Vacant building

Agenda Sent To: Applicant and project contact.

Attachments: Tentative Parcel Map, letter from applicant.

PJ No.s: 2440

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## BACKGROUND

On April 2, 1981, the Planning Commission approved an "S" Zone application for a 42,160 square foot industrial concrete tilt-up building with Redevelopment Agency approval on August 4, 1981, however the building was never constructed. On February 3, 1983, the Planning Commission approved an "S" Zone application for a 42,077 square foot industrial building, with Redevelopment Agency approval granted on February 15, 1983. Subsequently, the Planning Commission approved an "S" Zone approval-amendment to increase the square footage to 49,230 square feet. Subsequent amendments include approval for an equipment enclosure and outdoor patio canopy.

### Site and Area Description

The project site is located on a 2.16-acre parcel at the southwest portion of McCarthy Boulevard, approximately 400 feet south of Sycamore Drive, in the Oak Creek Business Park. The site is bound by McCarthy Boulevard to the east, with the Coyote Creek Trail and the eastern portion of San Jose to the west, and developed with a vacant 48,926 square foot, 2-story concrete tilt-up industrial building. Surrounding development directly northeast, east and southeast of the site is developed as Industrial Park with tenants such as LSI, Linear Technology and Xicor. Directly south of the project site is land zoned Light Industrial (M1) and developed with vacant buildings.



*1551 McCarthy Boulevard*

## THE APPLICATION

The application is submitted pursuant to Chapter 1 (Subdivisions), Section 4.00 (Tentative Maps) of the Milpitas Municipal Code.

The applicant is requesting a major tentative parcel map for condominium ownership purposes for an existing industrial building. As indicated on the tentative parcel map, the interior space of the building is proposed to be divided into thirty-two (32) units for individual sale as light industrial research and development (R&D) offices. The individual condominium units are proposed to range from 470 square feet to 2,541 square feet. By creating condominium units within the building, the property owners are able to divide the interior and sell them individually. No exterior site or building improvements/modifications are proposed with this application.

## **ISSUES**

### **Conformance with the General Plan**

The proposed project does not conflict with the General Plan and is consistent with Implementing Policies 2.a-I-3 and 2.a-I-7, which provide for opportunities to expand employment and promote business retention and encourage economic pursuits that strengthen and promote development through stability and balance. By creating condominium units within the building, the property owners are able to divide the interior and sell them individually. This allows the potential for smaller businesses to locate in the area that cannot afford to purchase and maintain the entire property or lease a larger space.

### **Conformance with the Zoning Ordinance**

The project does not conflict with the Zoning Ordinance and is in conformance in terms of land use and development standards. The applicant is proposing to subdivide this industrial building into individual units for research and development offices, which is a permitted use when found necessary to serve the industrial area in the Light Industrial (M1) District. Any future land uses would be subject to the permitted and conditional uses allowed in the Light Industrial (M1) District.

In regard to the development standards of the M1 zoning district, the original development was approved in 1983 and built in conformance with the then-current standards of the M1 district. This major tentative parcel map application does not propose any new exterior site or building modifications to the existing development or the adjustment of existing lot lines. This major tentative parcel map application only affects the interior space of the building by partitioning the existing building. Each unit will have its own interior entrance and space. All units will share the parking, driveways, site access and other site amenities, which will be maintained by a property owner association and recorded as common areas.

### **Conformance with Parking Standards**

According to Planning files, 172 parking spaces were provided on site when the building was developed. The applicant is proposing to subdivide this building into individual units for research and development offices, which has a parking ratio of 1 space per 300 square feet. Based on ordinance requirements for parking, research/development use of this building requires 163 parking spaces. According to plans submitted by the applicant, 166 parking spaces are proposed, therefore staff is confident there will be sufficient parking to accommodate research

and development offices at this location. However, as a condition of approval, *staff recommends* the applicant submit a parking restriping plan to the Planning Division prior to recordation of the Parcel Map to ensure conformance with City parking requirements for research and development office uses.

### **Conformance with the State Subdivision Map Act & Subdivision Ordinance**

With respect to approving the subject application, the Subdivision Map Act defers to local ordinance. The City's Subdivision Ordinance requires design and improvement consistency with the General Plan. As previously covered in the conformance with the General Plan section, the proposed Major Tentative Parcel Map is in conformance with General Plan.

### **Conformance with CEQA**

The project is categorically exempt from further environmental review pursuant to Class 1 (k), Section 15301 ("Existing Facilities") of the Environmental Quality Act (CEQA) guidelines. This section exempts such projects as subdivisions of existing commercial or industrial buildings, where no physical changes occur which are not otherwise exempt.

### **RECOMMENDATION**

Close the Public Hearing. Approve Major Tentative Parcel Map No. MA2005-8 based on the Findings and Recommended Special Conditions listed below:

### **FINDINGS**

1. The proposed project, as conditioned, does not conflict with the General Plan and is consistent with Implementing Policies 2.a-I-3 and 2.a-I-7, which provides for opportunities to expand employment and promote business retention and encourages economic pursuits that strengthen and promote development through stability and balance.
2. The proposed project does not conflict with the Zoning Ordinance in terms of land use and development standards. The applicant is proposing to subdivide an existing building into 32 individual ownership units for research and development offices. According to Sections 30.02-1.1 administrative, professional or research offices are permitted when found necessary to serve and appropriate to the industrial area. Therefore, the proposed project remains in compliance with the development standards and uses of the M2 district.
3. The proposed project is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that it conforms to the local ordinance, Milpitas General Plan.
4. The proposed project is categorically exempt from further environmental review pursuant to Class 1 (k), Section 15301 ("Existing Facilities") of the State CEQA Guidelines in that there are no proposed physical changes to the existing industrial building for the subdivision that are not otherwise exempt.

## SPECIAL CONDITIONS

1. This approval is for Major Tentative Parcel Map No. MA2005-8 to create thirty-two (32) condominiums within the building located on parcel 86-03-080, as depicted on the Tentative Parcel Map dated February 8, 2006, and as amended by these conditions of approval. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state, and local regulations. (P)
3. If, at the time of submittal for Parcel Map approval, there is a project job account balance due to the City for recovery of review fees, review of parcel map will not be initiated until the balance is paid in full. (P)
4. Prior to recordation of the Parcel Map, the applicant shall submit to the City a parking lot restriping plan for Planning Division review and approval. (P)
5. Make changes as noted on Engineering Services Exhibit "T" (dated 1/27/06) and submit a Mylar of the revised tentative map to the Planning Division within three weeks of this tentative map approval. (E)
6. Prior to recordation of any parcel map, the developer shall submit to the City a digital format of the final map (AutoCAD format). All parcel maps shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
7. Prior to parcel map recordation, the developer shall establish a property owner association. The property owner association shall be responsible for the maintenance of the landscaping, walls, private lights, utilities such as water, sewer, storm and irrigation as well as all other facilities utilized in the common area and shall have assessment power. This information shall be clearly included in the Conditions, Covenants, and Restrictions (CC&R) and recorded concurrently with the parcel map. The CC&R document shall be submitted for review and approval by the City Engineer. (E)
8. Prior to parcel map recordation, the developer shall obtain design approval and bond for all necessary public improvements along McCarthy Blvd., including but not limited to curb and gutter, pavement, sidewalk, driveway, any landscape retaining walls, signage, striping, street lights, fire hydrants, storm drain, sewer and water services. Plans for all public improvements shall be prepared on Mylar (24"x36" sheets) with City Standard Title Block and submit a digital format of the Record Drawings (AutoCAD format is preferred) upon completion of improvements. The developer shall also execute a secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (E)
9. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements and no trees or deep-rooted shrub are permitted within City utility easements, where the easement is located within landscape areas. (E)
10. The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division:

A. Water Service Agreement(s) for water meter(s) and detector check(s).

B. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.

Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)

11. If necessary, developer shall obtain required industrial wastewater discharge approvals from San Jose/Santa Clara Water Pollution Control Plant (WPCP) by calling WPCP at (408) 945-3000. (E)
12. The City makes every effort to deliver a continuous and sufficient supply of water. However, temporary interruptions may be necessary for the purpose of making repairs or improvements. If it is important to maintain uninterrupted water supply to this development (except in case of emergency), the developer is encouraged to design and install a redundant water service system. (E)
13. If the existing services (water, sewer and storm) are not adequately sized to serve this additional development, plans showing new services must be submitted and approved prior to building permit issuance. (E)
14. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
15. The developer shall obtain information from the US Postal Services regarding required mailboxes. Structures to protect mailboxes may require Building, Engineering and Planning Divisions review. (E)
16. It is the responsibility of the developer to obtain any necessary encroachment permits from affected agencies, including but not limited to, Pacific Gas and Electric, SBC, Comcast, Santa Clara Valley Water District, Santa Clara Transportation Agency and City of Milpitas Engineering Division. (E)
17. It is the responsibility of the developer/owner to obtain approval/consent from the adjacent property owners for removal of existing onsite joint access. (E)
18. Prior to parcel map recordation, developer must pay all applicable development fees, including but not limited to sewer, water, storm and sidewalk plan check and inspection deposit. These fees are collected as part of the secured public improvement agreement. The agreement shall be secured for an amount of 100% of the engineer's estimate of the construction cost for faithful performance and 100% of the engineer's estimate of the construction cost for labor & materials. (E)
19. The developer shall call Underground Service Alert (U.S.A.) at (800) 642-2444, 48 hrs prior to construction for location of utilities. (E)
20. The U.S. Environmental Protection Agency (EPA) has empowered the San Francisco Bay Regional Water Quality Control Board (RWQCB) to administer the National Pollution Elimination Discharge System (NPDES) permit. The NPDES permit requires all dischargers to eliminate as much as possible pollutants entering our receiving waters. Industries are required to make an evaluation of their specific site activities and determine their permit requirements. If a permit is required, industries must prepare the following documents:

- A. File a Notice of Intent (NOI) prior to building permit issuance.
- B. Prepare and submit a Storm Water Pollution Prevention Plan with the NOI.
- C. Prepare a Monitoring Plan prior to operation.

If you have questions about your specific requirements contact the RWQCB at (1-800) 794-2482. For general information contact the City of Milpitas at (408) 586-3329. (E)

# Balch Enterprises Inc.

Developers — Builders — License #427860

30960 Huntwood Ave.  
Hayward, CA 94544  
(510) 429-9400  
FAX (510) 429-9966

Oak Creek Office Center  
1551 McCarthy Blvd. Milpitas, Ca

A 32 Suite Office Condominium Project by Balch Enterprises  
30560 Huntwood Ave, Hayward, Ca. 94549 Ph 510/429-9400

The Existing 2-Story, 48,926 square foot R&D building (previously occupied by LSI Corp.) is under going interior renovations to create 32 Office suites ranging in size from 470 sq.ft to 2,541 sq.ft. (1284 sf. Average) Building Permit B-BL2005-540 covers Alteration plans, by ArcTec Architects. San Jose Construction is preparing to manage construction.

#### Project Data:

1551 McCarthy Blvd. Milpitas, Ca  
Parcel 2, Book 491 of Maps, page 18. APN 086-03-080  
Site Area 2.155 ± Acres (93,997 sq.ft.)

#### Building Area:

Common Use Area ...7,829 ± sq.ft. (16%)  
Area of 32 Suites ...41,097 ± sq.ft. (84%)  
Building Area: Gross 48,926 ± sq.ft.

#### Parking:

Standard Spaces... 102  
Accessible..... 6  
Compact..... 58 (35%)  
Total..... 166

#### Parking:

Required Parking: (R&D) 48,926 sf/350 sf = 139 Spaces > 166 OK  
Required Parking: (Office) 48,926 sf/300 sf = 163 Spaces > 166 OK  
Provides 5 Spaces per Suite + 6 Accessible  
Gross Area: 48,926sf/166 spaces = 294 sf/Space  
Equals 3.4 spaces/1,000 sf  
Suites Area: 41,097sf/166 spaces = 248 sf/Space  
Equals 4.0 spaces/1,000 sf

#### Landscape Notes:

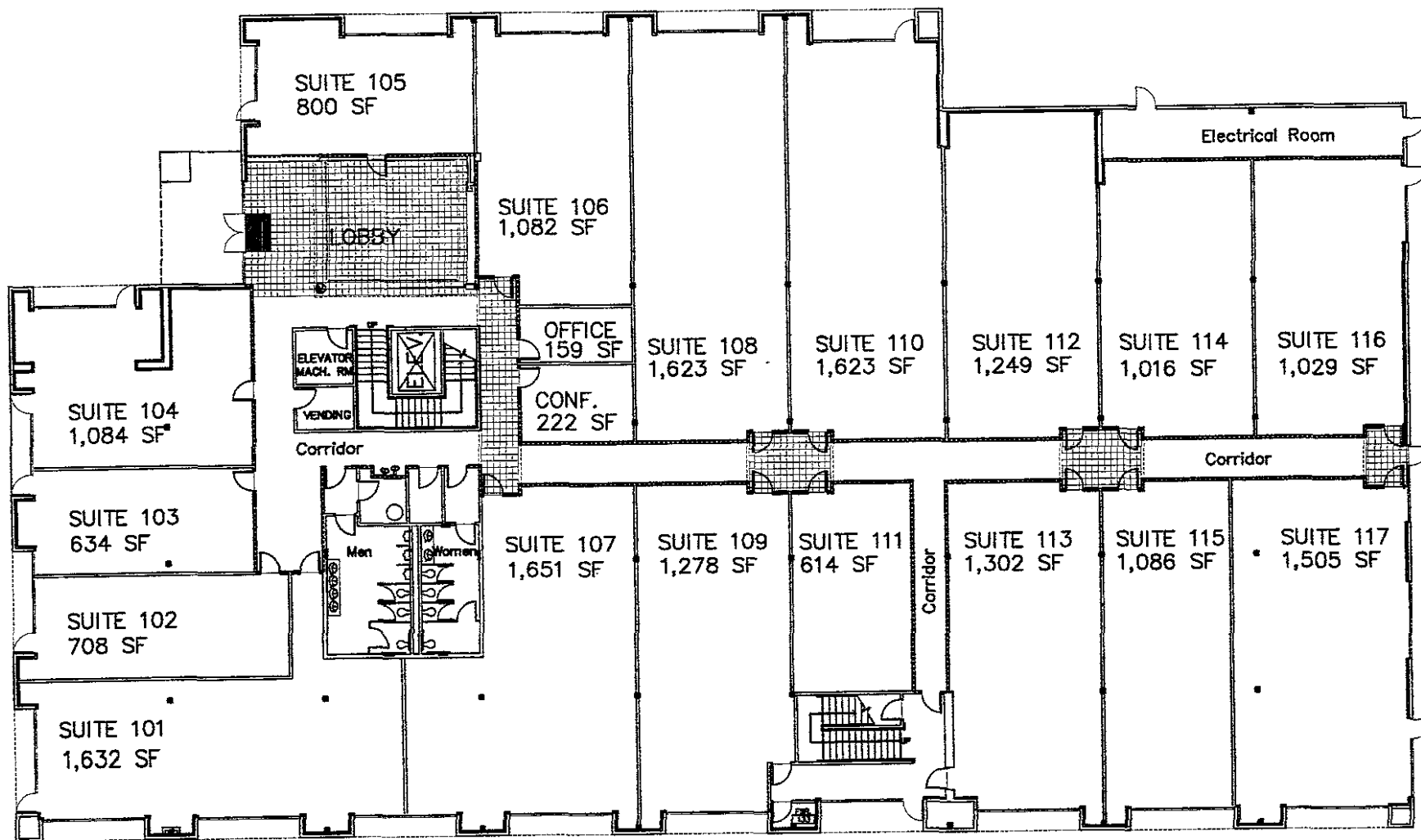
No trees are being removed. New Sidewalk. Will replace 6' of lawn across front of site.

**RECEIVED**

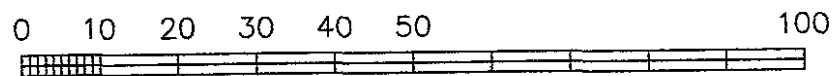
JAN 30 2006

CITY OF MILPITAS  
PLANNING DIVISION





First Floor Plan



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